

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

RESOLUTION R4-2019-XXXX

APPROVING THE 2019 DISADVANTAGED COMMUNITY SUPPLEMENTAL
ENVIRONMENTAL PROJECT LIST SUBMITTED BY THE ROSE FOUNDATION
FOR COMMUNITIES AND THE ENVIRONMENT

WHEREAS:

1. The Regional Board is an agency of the State of California with the mission of preserving, protecting, enhancing, and restoring water quality within major portions of Los Angeles and Ventura Counties. In support of that mission, the Regional Board has the authority to enforce permit conditions and provisions of the Board's Water Quality Control Plans by issuing Administrative Civil Liability Orders (ACL Orders).
2. Dischargers who wish to settle alleged water quality violations may offer to complete Supplemental Environmental Projects (SEPs) that offset the financial liability that may otherwise be imposed by the Board; dischargers may fund SEPs in lieu of submitting payments to the State Water Resources Control Board's (State Board) Water Pollution Cleanup and Abatement Account and/or Waste Discharge Permit Fund. SEP settlements are memorialized in Stipulated ACL Orders.
3. The State Board has adopted a Water Quality Enforcement Policy effective October 5, 2017 and a Statewide Policy on Supplemental Environmental Projects (SEP Policy) effective May 3, 2018 that together regulate the use of SEPs statewide.
4. As defined by Public Resources Code section 71118, subdivision (a)(3), a SEP is "an environmentally beneficial project that a person subject to an enforcement action voluntarily agrees to undertake in settlement of the action and to offset a portion of a civil liability." Water Code section 13385, subdivision (l)(2) further defines a SEP, in part, as "an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action."
5. The Rose Foundation for Communities and the Environment (Rose Foundation) is a grantmaking public charity based in Oakland, California with extensive experience in managing Supplemental Environmental Project (SEP) funds related to Clean Water Act settlements and other similar settlement funds related to environmental protection, public health, social justice and consumer protection.
6. The Rose Foundation is ideally situated to work within these communities to develop SEPs for their benefit, as it has demonstrated that it has the institutional capacity, the proven track record, and the connections within disadvantaged

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communities (DAC) to help promote the DAC SEP Program and to provide oversight of the SEPs themselves.

7. On June 15, 2018, the Regional Board and the Rose Foundation entered a Memorandum of Understanding (MOU) to establish, develop and administer a Los Angeles Region Disadvantaged Community SEP Fund (Attachment A). This launched the program to promote the allocation of SEP monies to disadvantaged communities. The Rose Foundation helps disadvantaged communities to develop SEP proposals, proposes a list of these proposals to the Regional Board on an annual basis, assists disadvantaged communities and their advocates in the implementation of these SEPs by providing third-party oversight as the SEPs are funded, implemented, and completed.
8. The Rose Foundation has committed to proposing updates to the Disadvantaged Community SEP List each year. These lists are to contain a catalogue of SEPs that dischargers facing administrative civil liability may fund in lieu of making payments to the State Water Board's Water Pollution Cleanup and Abatement Account and/or Waste Discharge Permit Fund.
9. The 2019 Disadvantaged Community SEP List (Attachment B) was submitted to the Regional Board in April of 2019. It consists of 25 projects which showcase a wide variety of groups that work at the intersection of water quality and community benefit. This includes a number of local grassroots organizations as well as larger regional and state wide organizations.¹ All projects have been reviewed to ensure they meet agency goals and that no proposed projects contain elements that are contrary to established state policy.
10. The Rose Foundation shall confirm how the funds were expended in an annual report to the Regional Board.

THEREFORE BE IT RESOLVED, the Regional Board, after considering the entire record, including written and oral testimony at the hearing:

1. Approves the 2019 Disadvantaged Community SEP List.
2. Authorizes the Rose Foundation to propose updates to the Disadvantaged Community SEP List on an annual basis that will fund projects to benefit disadvantaged communities in the Los Angeles Region as described in Attachment A to this Resolution.
3. Directs the Rose Foundation to annually conduct an open application process that will allow new organizations to submit a qualifying proposal for consideration for the Project List and/or allow organizations to update past proposals.
4. Directs the Rose Foundation to annually bring this list back to the Regional Board for approval.

¹ The complete set of Project Proposals for the 2019 Disadvantaged Community SEP List is available to the public at the Regional Board offices, and upon request.

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5. Directs Board staff to work with the Rose Foundation to publicize the DAC SEP Program on the Regional Board's website, and to give serious consideration to all proposals that would include these SEPs as a part of the settlement of a discharger's potential civil liability
6. Allows dischargers the ability to select which projects from the 2019 Disadvantaged Community SEP list are funded with their financial contributions.
7. Allows dischargers the ability to direct funds to the Rose Foundation for use in a SEP on the Disadvantaged Community SEP list will have an equivalent amount of administrative civil liability suspended at the time they make actual payment of the amount agreed to in the ACL Order to the Rose Foundation, provided that the ACL Order also states that the Regional Board is entitled to recover any funds that are not expended in accordance with the terms of the ACL Order.

I, Renee Purdy, Executive Officer, do hereby certify that this Resolution is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region on October 10, 2019.

Renee Purdy, Executive Officer